



W.A.(MD)Nos.735 to 738 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

DATED : 25.07.2022

CORAM:

THE HONOURABLE **MR.JUSTICE S.S.SUNDAR**
and
THE HONOURABLE **MRS.JUSTICE S.SRIMATHY**

W.A(MD)Nos.735 to 738 of 2022
and
C.M.P(MD)Nos.6205, 6206, 6208 and 6210 of 2022

State Bank of India,
Represented by its Deputy General Manager,
Secured Assets Management Building,
Red Cross Buildings,
32, Red Cross Road, Egmore,
Chennai - 600008

... Appellant in all the writ appeals/3rd respondent

Vs.

- | | |
|---|---|
| 1.Selvaraj Moses |1 st Respondent in W.A(MD)No.735 of 2022/
writ petitioner |
| 2.Anny Johnson | ... 1 st respondent in W.A(MD)No.736 of 2022/
Writ petitioner |
| 3.T.Johnson | ... 1 st respondent in W.A(MD)No.737 of 2022/
Writ Petitioner |
| 4.Samuel Jeffison | ... 1 st respondent in W.A(MD)No.738 of 2022/
Writ petitioner |
| 5.Ministry of Finance,
Represented by its Secretary,
Department of Financial Services,
Jeevan Deep Building,
Parliament Street, New Delhi – 110001. | |



W.A.(MD)Nos.735 to 738 of 2022

6. Reserve Bank of India,
Represented by its Chief General Manager,
Department of Banking Operations and Development
Central Office, 13th Floor, Central Office Building,
Shadi Bhagat Singh Road,
Mumbai – 400001.

7. Trans Union CIBIL Limited,
Formerly Credit Information Bureau (India) Limited,
Represented by its Authorised Representative,
One India Bulls Centre, Tower 2A, 19th Floor,
Senapati Bapat Marg Elphinstone Road,
Mumbai – 400013. ... Respondents 2 to 4 in all W.As/
Respondents 1, 2 and 4

Common Prayer: Writ Appeal filed under Clause 15 of the Letters Patent,
against the order dated 11.04.2022 passed in W.P(MD)No.16977, 16978, 16979
of 2019.

(In all W.As)	
For Appellant	:Mr.S.Sethuraman
For R-2	:Mr.P.Subbiah,
	Central Government Standing Counsel

COMMON JUDGMENT

(Judgment of the Court was delivered by **S.S.SUNDAR, J.**)

Heard Mr.S.Sethuraman, learned counsel appearing for the appellant
and Mr.P.Subbiah, learned Central Government Standing Counsel for the
second respondent.



W.A.(MD)Nos.735 to 738 of 2022

2. These writ appeals are directed against the common order passed by the learned single Judge of this Court in a batch of writ petitions where the prayers are for issuing a Writ of Certiorarified Mandamus to quash the publication of willful defaulters list including the writ petitioners as willful defaulters and for a consequential direction to follow and comply with the RBI circular, dated 01.07.2015, in the light of the directions of the Honourable Supreme Court.

3. It is admitted before this Court the petitioners in all the writ petitions are the Managing Director and Directors of a Company M/s.St.John Freight Systems Ltd., which is carrying on business in multiple services provider in the logistic and shipping industry. The learned counsel appearing for the appellants submitted that the writ petitioners are closely associated /relatives. The writ petitioners have availed financial assistance from State Bank of India, Industrial Finance Branch, Chennai, for the development of their business.

4. It is not in dispute that the loan accounts of the Company are classified as NPA. The appellant bank issued a notice to the writ petitioners to appear before the Willful Defaulter Identification Committee. Since the writ petitioners did not appear before the Committee on the dates on which they



W.A.(MD)Nos.735 to 738 of 2022

were expected to appear, further opportunity was also stated to have been given to the writ petitioners.

5. It is the case of the writ petitioners that they have made arrangements for entering into One Time Settlement with the appellant bank. It is stated that the writ petitioners were seriously pursuing different option to discharge the entire loan by way of One Time Settlement. It is admitted that another creditor of the Company initiated proceedings under the provisions of Insolvency and Bankruptcy Code, 2016, before the National Law Tribunal, Chennai and the Resolution Professional (RP) appointed by Tribunal called for interested parties to apply as a resolution applicant for the Company and issued a communication to the petitioners mentioning that the fourth respondent in the writ petition has published the name of petitioners as willful defaulters on the web-site. It is the case of the writ petitioners that the fourth respondent in the writ petition published the name of the writ petitioners as willful defaulters in its web-site without following due procedure. Challenging the publication of list of willful defaulters including the name of the writ petitioners, the writ petitions came to be filed.



W.A.(MD)Nos.735 to 738 of 2022

6. The learned single Judge allowed the writ petitions by following the judgment of the Honourable Supreme Court in the case of ***State Bank of India v. Jah Developers*** reported in ***(2019) 6 SCC 787***, relating to an identical issue regarding the procedure to be followed before declaring the persons as willful defaulters. The Honourable Supreme Court has interpreted the Reserve Bank of India, circular dated 01.07.2015 and directed the bank to follow the procedure by following the principles of natural justice under the circular and directed the bank to give an opportunity to the borrowers to submit their representations placing their objections to the preliminary decision of the First Committee. The learned single Judge therefore allowed all the writ petitions quashing the impugned list declaring the writ petitioners as willful defaulters and remitted the matter to the appellant for fresh consideration on merits and in accordance with law in the light of the judgment of the Honourable Supreme Court in ***State Bank of India v. Jah Developers (cited supra)***.

7. The order of the learned single Judge is challenged mainly on the ground that the issue regarding declaration of the writ petitioners as willful defaulters was taken on 18.06.2018 much before the judgment of the Honourable Supreme Court and that therefore, it was submitted that the learned single Judge is not right in following the judgment of the Honourable Supreme



W.A.(MD)Nos.735 to 738 of 2022

Court in the present case.

WEB COPY

8. Since the appellant bank has followed the instructions given by the Reserve Bank of India master circular and the borrowers were given sufficient opportunity before the First Committee, the learned counsel appearing for the appellant bank submitted that there is no violation of principles of nature justice in the present case as the borrowers are very well aware of the consequences.

9. This Court is unable to countenance the arguments of the learned counsel appearing for the appellant. The Honourable Supreme Court in the judgment relied upon by the learned single Judge has specifically considered the consequences of declaring a person as a willful defaulter and publish his name. It is not in dispute that the procedure as contemplated and recommended by the Honourable Supreme Court has not been followed. The Honourable Supreme Court has interpreted the circular and observed that the borrowers should be given an opportunity to raise their objections before the review committee and the review committee should pass a reasoned order on the representation of the borrower. The recommendations with regard to the procedural lapses are binding and the learned single Judge has rightly applied the judgment of the Honourable Supreme Court as it can be extended to the



W.A.(MD)Nos.735 to 738 of 2022

cases where publication is challenged on the ground of violation of principles

of natural justice. Accordingly, these writ appeals are liable to be dismissed.

10. The learned counsel appearing for the appellant bank submitted that the time limit of six months given by the learned single Judge may be modified as three months have already gone from the date of order. The direction of the learned single Judge regarding time stipulation alone is dispensed with.

11. These writ appeals are dismissed with the above modification.
No Costs. Consequently, Connected miscellaneous petitions are closed.

[S.S.S.R., J.] [S.S.Y., J.]
25.07.2022

Index : Yes / No
pm



WEB COPY



W.A.(MD)Nos.735 to 738 of 2022

S.S.SUNDAR, J.
and
S.SRIMATHY, J.

pm

W.A.(MD)Nos.735 to 738 of 2022

25.07.2022